

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**ZACHARY T. PAINTER,**

**Plaintiff,**

**v.**

**CIV. NO. 07-395 MCA/ACT**

**WELLS FARGO BANK, N.A., et al.,**

**Defendants.**

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before the Court on Plaintiff's Motion to Compel Discovery from Defendants City of Albuquerque, Officer Kelly, Officer Crooke, Officer Perry, and Officer Porlas ("City Defendants") filed February 8, 2008 [Doc. 39]. Plaintiff is seeking an order from the Court compelling the City Defendants to respond to Interrogatory Nos. 7, 8, 9 and 12 and Requests for Production Nos. 1,4 and 5. Defendants failed to respond to the Motion. Pursuant to D.N.M.LR-Cv-7.1(b), failure to respond "constitutes consent to grant the motion."

**IT IS THEREFORE ORDERED** that Plaintiff's Motion to Compel Discovery is granted and the City Defendants will respond to Interrogatory Nos. 7,8,9 and 12 and Requests for Production Nos. 1, 4 and 5 within ten (10) days of entry of this Order.

**IT IS FURTHER ORDERED** that counsel for Plaintiff will file an affidavit itemizing the attorneys' fees and costs incurred in bringing Plaintiff's Motion to Compel Discovery within seven (7) days of entry of this Order. Counsel for the City Defendants may respond to the affidavit within

five (5) days of the filing of the affidavit.

  
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**ALAN C. TORGERSON**  
**UNITED STATES MAGISTRATE JUDGE**